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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/535,186	03/27/2000	George McBride	CARDIOBEAT-1	3794

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EXAMINER

KIM, PAUL L

ART UNIT

PAPER NUMBER

2857

DATE MAILED: 02/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/535,186

Applicant(s)

MCBRIDE ET AL.

Examiner

Paul L Kim

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Specification***

1. The application is objected to because of alterations which have not been initialed and/or dated as is required by 37 CFR 1.52(c). A properly executed oath or declaration which complies with 37 CFR 1.67(a) and identifies the application by application number and filing date is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 5-7 and 11-17 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

With reference to claims 5 and 7, the term "second apparatus" was not clearly described in the specification. With reference to claims 11-17, the term "second processed data" was also not clearly described in the specification.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1-9 and 18-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Albert et al.

With reference to claims 1 and 4, Albert et al. teaches a medical testing method comprising the steps of: providing and coupling a test sensor to a subject (fig. 3, part 8), coupling the test sensors to an apparatus having access the Internet (fig. 3, part 4), operating the apparatus to automatically obtain test measurement data from the test sensors (fig. 3, part 18), and uploading the test measurement data via Internet to a location remote from the subject (fig. 8, part 16).

With reference to claims 2-3, Albert et al. teaches providing a server at a remote location, processing the information at the central server, and displaying the information (fig. 3, parts 10 and 18 & col. 8, lines 62-64).

With reference to claims 5-7, Albert et al. teaches receiving a request at the server from second apparatus and transmitting the processed data to the second apparatus via Internet (fig. 6).

With reference to claims 8-9, Albert et al. teaches storing the processed data in a database (col. 9, lines 31-40).

With reference to claims 18-19, Albert et al. teaches providing multimedia means at the apparatus, using the interface to communicate test instructions to the subject, and receiving the test information via Internet (fig. 3, part 10).

With reference to claim 20, Albert et al. teaches receiving the test instruction information from a central server coupled to the Internet (col. 8, lines 62-65).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 10-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albert et al. as applied to the claims above, and further in view of Alleckson et al.

With reference to claims 10-11, Albert et al. does not teach automatically storing processed data at different times nor providing a program to analyze the historical test data. Alleckson teaches analyzing data measurement history with a program (col. 5, lines 48-57). It would have been obvious to one of ordinary skill in the art, at the time the

invention was made, to modify Albert, so that data measurement history can be analyzed, as taught by Alleckson, in order to make accurate synopsis of a medical condition.

With reference to claims 12-16, Albert et al. teaches processing a second data signal for transmission over the Internet to the recipient (col. 3, lines 38-41).

With reference to claim 17, Albert et al. does not teach encrypting or decrypting data. Alleckson teaches encrypting patient data (col. 10, lines 47-52). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify Albert, so that security of data transmission can be performed, as taught by Alleckson, in order to keep medical data confidential.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Braun et al. teaches a medical data collection system comprising of medical sensors coupled to a computer and Internet (fig. 1). Walker et al. teaches a patient care delivery system that connects medical sensors to outside recipients via Internet (fig. 1).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Kim whose telephone number is 703-305-7468. The examiner can normally be reached on Monday-Friday 10:00-6:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 703-308-1677. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-9722 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

PK  
February 8, 2002

  
MARC S. HOFF  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800